

Remarks

The present amendment is submitted in response to the Office Action received from the United States Patent Office dated March 31, 2010. The Patent Office rejected Claims 1-12, 17-28 and 33-44 under 35 U.S.C. §102(b) as being anticipated by *DorEl* (U.S. Patent Number 5,721,951). The Patent Office rejected Claims 13-15 and 29-32 under 35 U.S.C. §103(a) as being unpatentable over *DorEl* (U.S. Patent Number 5,721,951) in view of *Ooe* (U.S. Patent Number 5,901,328).

In response to the Office Action, Applicant respectfully has amended Claims 1, 17, and 33. Applicant respectfully submits that the amendments to the claims and the explanations below overcome the rejections to the claims. Applicant submits that all of the claims are now in condition for allowance. Notice to that effect is requested.

The Patent Office rejected Claims 1-12, 17-28 and 33-44 under 35 U.S.C. §102(b) as being anticipated by *DorEl* (U.S. Patent Number 5,721,951). The Patent Office alleges that Claim 1, *DorEl* discloses a multimedia apparatus configured for use in a home entertainment system, said apparatus comprising (see fig 1, col. 2, lines 57-60, col. 3, lines 65-67 and col. 4, lines 1-5): a data communication link configured to receive a software program via a network; (see fig 5 (38), col. 3, lines 16-21 and col. 7, lines 17-27) wherein the software programs are formatted and published for compatibility with standard computer platforms (see cited portion, but not limited to abstract, lines 1-8, col. 2, lines 51-56); a processing device configured to identify the software program received by the data communications link and to determine whether said software program needs to be installed or has already been installed, and if it needs to be installed, to determine whether installation information relating to the software program is available to the processing device, said processing device further being configured to begin playing the software program if it has already been installed or to automatically initialize an installation of the software program prior to playing the software program if the installation information is available (see fig 3 and col. 5, lines 27-67, col. 6, lines 1-21); whereby the processing device is capable of initiating the software program without alteration or additional configuration of the software program (see cited portion, but not limited to col. 2, lines 57-col. 3, line 2); circuits for generating an output signal in response to the

multimedia software program whereby said circuits are configured to read an instruction set wherein the instruction set comprises an installation script (see col. 2, lines 57-col. 3, line 2, col. 5, lines 5-67 and fig. 3, a processor is capable of playing standard desktop computer multimedia software without alteration is housed in a home entertainment system chassis. Means are also provided for generating one or more video output signals and audio output signals in response to the processing of the multimedia software program, and feeding those audio and video output signals to one or more presentation devices integrated within a home entertainment system); and an output means for providing audio and image data resulting from playing of the software program to the home system (see col. 2, lines 62-67).

The Patent Office alleges that Claim 17, *DorEl* discloses a home entertainment system comprising (see col. 2, lines 57-62): an input for receiving user commands (see col. 4, lines 57-63); a display for presentation of image data (see col. 4, lines 42-47); an audio circuit for presentation of audio data (see col. 4, lines 38-41); one or more audio or video components for playing audio or video recordings (see col. 6, lines 35-49); and a multimedia apparatus having capability of playing software programs, comprising (see col. 6, lines 66-67 and col. 7, lines 1-6): a data communications link configured to receive a software program via a network; (see fig 5 (38), col. 3, lines 16-21 and col. 7, lines 17-27) wherein the software programs are formatted and published for compatibility with standard computer platforms (see cited portion, but not limited to abstract, lines 1-8, col. 2, lines 51-56); a processing device configured to identify the software program received by the data communications link and to determine whether said software program needs to be installed or has already been installed, and if it needs to be installed, to determine whether installation information relating to the software program is available to the processing device, said processing device further being configured to begin playing the software program if it has already been installed or to automatically initialize an installation of the software program prior to playing the software program if the installation information is available (see fig 3 and col. 5, lines 27-67, col. 6, lines 1-21) whereby the processing device is capable of initiating the software program without alteration or additional configuration of the software program (see cited portion, but not limited to col. 2, lines 57-col. 3, line 2); circuits for generating an output signal in response to the multimedia software

program whereby said circuits are configured to read an instruction set wherein the instruction set comprises an installation script (see col. 2, lines 57-col. 3, line 2, col. 5, lines 5-67 and fig. 3, a processor is capable of playing standard desktop computer multimedia software without alteration is housed in a home entertainment system chassis. Means are also provided for generating one or more video output signals and audio output signals in response to the processing of the multimedia software program, and feeding those audio and video output signals to one or more presentation devices integrated within a home entertainment system); and an output means for providing audio and image data resulting from the playing of the software program to the audio means and the display means (see col. 2, lines 62-67).

The Patent Office alleges that Claim 33, *DorEl* discloses a method of executing a software program in a home entertainment system, said method comprising (see col. 9, lines 29-32): providing a data communications link configured to receive software program from a network (see fig 5 (38), col. 3, lines 16-21 and col. 7, lines 17-27); whereby the communications link provides access to interactive television services, video conferencing and instant replay of television transmission, interactive multimedia software programs and other multimedia medium (see cited portion, but not limited to col. 3, lines 16-27); identifying the software program being read by the reading means (see col. 5, lines 39-47 and col. 12, lines 8-9); determining whether the software program needs to be installed or has already been installed, and should it need to be installed, whether installation information relating to the software program being read by the reading means is available to be used to perform an automatic installation of the software program (see fig 3 and col. 5, lines 27-67, col. 6, lines 1-21); beginning the playing of the software program if it has already been installed or automatically initializing an installation of the software program prior to executing the software program if the installation is available (see fig 3 and col. 5, lines 55-67, col. 6, lines 1-21); providing a lookup table or database used to automate the installation process in the form of a mass storage medium (see col. 4, lines 24-31, col. 6, lines 1-10 and fig. 1, a software creates a lookup table entry for the title, including description of relevant machine and file states affected by the installation procedure, so that the new title can thereafter be played using the automated drop

and play procedure); and providing audio and image data resulting from the playing of the software program to the home entertainment system (see col. 2, lines 62-67).

Independent Claims 1 and 17 have been amended to recite, *inter alia*, “the circuit is configured to read an instruction set stored in a header area of the CD-ROM/DVD, the instruction set facilitating automatic installation of the software program” as generally recited in dependent Claims 13 and 29. Similarly, Claim 33 has been amended to recite, *inter alia*, “reading an instruction set stored in a header area of the CD-ROM/DVD, the instruction set facilitating automatic installation of the software program.” In the 35 U.S.C. § 103 rejection of Claims 13 and 29, the Office Action admits that *DorEl* fails to specifically disclose storing an instruction set in a header information area of the CD-ROM/DVD, but alleges that *Ooe* discloses storing an instruction set in a header information area of the disk (see col. 12, lines 28-41).

Amended Claim 1 requires a multimedia apparatus configured for use in a home entertainment system, said apparatus comprising: a data communications link configured to receive a software program via a network wherein the software programs are formatted and published for compatibility with standard computer platforms; a processing device configured to identify the software program received by the data communications link and to determine whether said software program needs to be installed or has already been installed, and if it needs to be installed, to determine whether installation information relating to the software program is available to the processing device, said processing device further being configured to begin playing the software program if it has already been installed or to automatically initialize an installation of the software program prior to playing the software program if the installation information is available whereby the processing device is capable of initiating the software program without alteration or additional configuration of the software program; circuits for generating an output signal in response to the multimedia software program whereby said circuits are configured to read an instruction set wherein the instruction set comprises an installation script wherein the circuit is further configured to read an instruction set stored in a header area of the CD-ROM/DVD, the instruction set facilitating automatic installation of the software program; and an output means for providing audio and image data resulting from playing of the software program to the home system.

Amended Claim 17 requires A home entertainment system comprising: an input for receiving user commands; a display for presentation of image data; an audio circuit for presentation of audio data; one or more audio or video components for playing audio or video recordings; and a multimedia apparatus having capability of playing software programs, comprising: a data communications link configured to receive a software program via a network wherein the software programs are formatted and published for compatibility with standard computer platforms; a processing device configured to identify the software program received by the data communications link and to determine whether said software program needs to be installed or has already been installed, and if it needs to be installed, to determine whether installation information relating to the software program is available to the processing device, said processing device further being configured to begin playing the software program if it has already been installed or to automatically initialize an installation of the software program prior to playing the software program if the installation information is available whereby the processing device is capable of initiating the software program without alteration or additional configuration of the software program circuits for generating an output signal in response to the multimedia software program whereby said circuits are configured to read an instruction set wherein the instruction set comprises an installation script wherein the circuit is further configured to read an instruction set stored in a header area of the CD-ROM/DVD, the instruction set facilitating automatic installation of the software program; and an output means for providing audio and image data resulting from the playing of the software program to the audio means and the display means.

Amended Claim 33 requires a method of executing a software program in a home entertainment system, said method comprising: providing a data communications link configured to receive software program from a network whereby the communications link provides access to interactive television services, video conferencing and instant replay of television transmission, interactive multimedia software programs and other multimedia medium; reading an instruction set stored in a header area of the CD-ROM/DVD, the instruction set facilitating automatic installation of the software program; identifying the software program being read by the reading means; determining whether the software program needs to be installed or has already been installed, and

should it need to be installed, whether installation information relating to the software program being read by the reading means is available to be used to perform an automatic installation of the software program; beginning the playing of the software program if it has already been installed or automatically initializing an installation of the software program prior to executing the software program if the installation is available providing a lookup table or database used to automate the installation process in the form of a mass storage medium; and providing audio and image data resulting from the playing of the software program to the home entertainment system.

Applicant respectfully disagree. The cited portion of *Ooe* does not teach or suggest anything related to a header information area of a disk. As defined in the instant application, the “header information area of a disk” is a physical portion of a disk. (*See, for example*, instant application, “title area” 1105, FIG. 11.) The “header” discussed in *Ooe* is a header of a packet. A header of a packet is “[t]he portion of a packet, preceding the actual data, containing source and destination addresses, error checking and other fields.”¹ A header of a packet is not the same thing as a header information area of a disk.

Further, the only discussion of a disk in the cited portion of *Ooe* simply states that “[t]he body of the packet stores the data to be written to the file having the file identifier in the disk device 230.” (*Ooe*, col. 12:39-41.) Nothing in *Ooe* teaches or suggests that the data is written to a “header information area of a disk.” On the contrary, *Ooe* specifically states that it is written to a “file having the file identifier fd.” There is no teaching or suggestion that this file is any different from other files that are stored in the data storage portion of a disk or that the file is stored in a “header information area of a disk.” Accordingly, *DorEl*, alone or in combination with *Ooe* fails to teach or suggest each element of Claims 1, 17, and 33.

Under 35 U.S.C. §102(b), anticipation requires that a single reference disclose each and every element of Applicant’s claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986).

¹ Header. Dictionary.com. *The Free On-line Dictionary of Computing*. Denis Howe. <http://dictionary.reference.com/browse/header> (accessed: July 27, 2010).

Moreover, anticipation is not shown even if the differences between the claims and the reference are “insubstantial” and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (MPEP § 2131).

In view of the foregoing remarks and amendments, the rejected Claims 1-12, 17-28 and 33-44 under 35 U.S.C. §102(b) as being anticipated by *DorEl* (U.S. Patent Number 5,721,951) has been overcome and should be withdrawn. Notice to that effect is requested.

The Patent Office rejected Claims 13-15 and 29-32 under 35 U.S.C. §103(a) as being unpatentable over *DorEl* (U.S. Patent Number 5,721,951) in view of *Ooe* (U.S. Patent Number 5,901,328). The Patent Office alleges that Claims 13 and 29, *DorEl* discloses everything claimed as applied above (*see claims 1 and 17*). *DorEl* discloses a method for automatically installing a software program from a CD-ROM/DVD, facilitating automatic installation of the software program (see col. 3, lines 3-15). However, the Patent Office states that *DorEl* fails to specifically disclose storing an instruction set in a header information area of the CD-ROM/DVD. *Ooe* discloses storing an instruction set in a header information area of the disk (see col. 12, lines 28-41). Therefore, the Patent Office states it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of *DorEl* to include storing an instruction set in a header information area of the disk as taught by *Ooe* for the advantage of improving performance.

Claims 13 and 29 have been canceled. Claims 14-15 and 30-32 each depend from an allowable independent claim. Accordingly, in view of the foregoing remarks and amendments, the rejection of Claims 13-15 and 29-32 under 35 U.S.C. §103(a) as being unpatentable over *DorEl* in view of *Ooe* has been overcome and should be withdrawn. Notice to that effect is requested.

It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. *In re Simon*, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of the teaching of the reference, would have been obvious to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Applicants' invention. A teaching, suggestion, or incentive must exist to make the combination made by Applicants. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

Claims 2-15 depend from Claim 1; Claims 18-32 depend from Claim 17; and Claims 34-44 depend from Claim 33. These claims are further believed allowable for the same reasons set forth with respect to independent Claims 1, 17 and 33 since each sets forth additional novel steps of Applicant's Home Entertainment System.

In view of the foregoing remarks, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

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Respectfully submitted,

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